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Environmental
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Air Resources Board

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MEMORANDUM

TO: Barbara Eckard
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FROM: W. Thomas Jennings
Senior Staff Counsel

DATE: October 27, 1999

SUBJECT: "LEV II" AND "CAP 2000" REGULATORY AMENDMENTS
REGULATORY ACTION NO. 99-0917-08S

In response to our telephone conversations on October 26 and 27, 1999, the Air Resource Board (ARB) authorizes the Office of Administrative Law (OAL) to add section 2138 to the amended sections listed in Item B1 of the Form 400.

I also enclose the following additional material:

(a) A fully executed Revised Form 399, Economic and Fiscal Impacts Statement, to be substituted in Tab 7 of the rulemaking package. This bears the signature of Winston H. Hickox, Secretary for Environmental Protection.

(b) A Supplement to the Final Statement of Reasons.

(c) Seven copies of the following replacement pages for the Final Regulation Order. They reflect the nonsubstantial changes described below to sections of title 13, California Code of Regulations. Please substitute these for the corresponding pages in the Final Regulation Order we submitted September 17, 1999.

- (i) Page 4: In section 1960.1(g)(1), line 4, ". . . ultra-low-emission vehicles, ~~new 2003 . . .~~" is changed to ". . . ultra-low-emission vehicles, ~~and new 2003 . . .~~" to accurately reflect the change in regulatory text.

(ii) Page 14: In section 1960.1(h)(2), Note (3)b., lines 4 and 5, ". . . MDVs from 10,001-14,000 lbs. TW . . ." is changed to ". . . MDVs from ~~10,000~~ 10,001-14,000 lbs. TW . . ." to correct a textural error.

(iii) Page 16: In section 1960.1(h)(2), Note (12)d., line 4, ". . . will have no value if not used by the beginning . . ." is changed to ". . . will have no value if not ~~depleted~~ used by the beginning. . ." to show the change to the currently published text.

(iv) Page 31: In section 1961(c), first three lines, the "(A)" is deleted, so that:

"(c) Calculation of NMOG Credits/Debits

(1) Calculation of NMOG Credits for Passenger Cars and Light-Duty Trucks.

(A) In 2001 and subsequent model years . . ."

is changed to:

"(c) Calculation of NMOG Credits/Debits

(1) Calculation of NMOG Credits for Passenger Cars and Light-Duty Trucks. In 2001 and subsequent model years . . ."

The "(A)" is unnecessary as subsection (B) was deleted in the second set of "15-day changes."

(v) Original page 32 (reprinted page 31, but 7 copies of page 32 are included): In section 1961(c)(1), second to last line, ". . . LDTs 3751 lbs. LVW - 8500 ----*lbs. GVW . . ." is changed to ". . . LDTs 3751 lbs. LVW - 8500 lbs. GVW . . ." to correct a typographical error.

(vi) Page 40, section 1962(d)(1)(A)1, second to last line: ". . . Test Procedures for 1988 and Subsequent Model . . ." is changed to ". . . Test Procedures for 1988 Through 2000 Model . . ." to reflect the amended title of the referenced Test Procedure document.

(vii) Page 41, section 1962(d)(1)(B)1., eighth line below the table, ". . . shall consequently qualify for the . . ." is changed to ". . . shall consequently earn the . . ." to reflect the intended change described on page 25 of Attachment I to the First Notice of Availability of Modified Text (in Item 12 of the rulemaking file).

- (viii) Page 46, the Authority and Reference note for section 1968.1,

Note: Authority cited: Sections 39515, 39600, 39601, 43006, 43013, 43018, 43104, and 44036.2, Health and Safety Code, Sections 27156 and 38395 Vehicle Code. Reference: Sections 39002, 39003, 39667, 43000, 43004, 43006, 43008.6, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, and 44036.2, Health and Safety Code, Sections 27156, 38391, and 38395, Vehicle Code.

is changed to:

Note: Authority cited: Sections 39515, 39600, 39601 and 43006, 43013, 43018, 43104, and 44036.2, Health and Safety Code, Sections 27156 and 38395 Vehicle Code. Reference: Sections 39002, 39003, 39667, 43000, 43004, 43006, 43008.6, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, and 43204, and 44036.2, Health and Safety Code, Sections 27156, 38391, and 38395, Vehicle Code.

My preliminary investigation suggests that the more limited Authority and Reference note in Barclays is in error; the ARB's version of the existing regulation which we have provided to the public includes all of the citations listed in the LEV II Final Regulation Order.

- (ix) Page 57, section 2037(g) line 8, ". . . incorporated by reference in subsection 1960.1(k) and 1961(d)." is changed to ". . . incorporated by reference in subsection 1961(d)." to reflect the fact that the referenced test procedure document is only incorporated by reference in section 1961(d). In addition, the double underlining has been removed under "sub" on lines 5 and 8.
- (x) Page 58, section 2038(m), line 4, ". . . required by subsections (c)(3), (e), and (f) . . ." is changed to ". . . required by subsections (c)(1) . . ." to correct the subsection reference.
- (xi) Page 64, section 2112(l)(17), after the regulatory text, the following has been inserted: "[renumber existing (l)(17)-(20) as (l)(18)-(21)]."

(d) One copy of a replacement page E-10 for the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," incorporated by reference in section 1961(d) and included in Tab 19 of the rulemaking file. In the table in Section E.1.4.2 (Standards for Vehicles Certified to the LEV II Standards), the 50°F HCHO (formaldehyde) standard for ULEVs in the MDVs 10,001-14,000 lbs. GVW weight class is changed from 0.040 to 0.042 g/mi. This conforms the standard to the identical standard correctly identified in the table in section 1961(a)(4) (page 25 of the Final Regulation Order). In the first italicized paragraph on page 6 of Attachment I to the First Notice of Public Availability of Modified Text (Item 12 of the rulemaking file), we explain that the 50°F

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formaldehyde standards are being modified to conform with the protocol for setting the 50°F standard for formaldehyde at two times the formaldehyde standard at ambient temperatures. The section 1961(a)(1) LEV II standards table (page 22 of the Final Regulation Order) shows the ambient formaldehyde standard for these vehicles as 21 milligrams per mile, so twice that standard is 0.042 g/mile.

(e) A copy of each of the 12 Air Resources Board incorporated documents listed as Attachments B through M of Executive Order G-99-059. These are to be attached to the Form 400 and Final Regulation Order filed with the Secretary of State. The correction described in the preceding paragraph is incorporated.

(f) A new table of contents for the rulemaking file, identifying the Supplement to the Final Statement of Reasons as Item 20 and renumbering the References as Item 21.

(g) A new certification of the rulemaking record, reflecting addition of the materials transmitted with this memorandum.

Thank you for your thorough review of this file. If you have any further questions, please call me at 323-9608.